

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

VENETIA KAPERNEKAS

Plaintiff,

-against-

UDO FRITZ-HERMANN BRANDHORST

-and-

THE BRANDHORST FOUNDATION

Defendants.

No. 08-cv-4046-(JSR)

**DECLARATION OF
VENETIA KAPERNEKAS**

Venetia Kapernekas declares pursuant to 28 U.S.C. § 1746 as follows:

1. I am the sole proprietor of a contemporary art gallery located at 526 W 26 Street, Suite 814, New York, New York 10001.
2. I have been an active participant in the international contemporary art scene for the last 20 years, as a gallerist, collector, and general supporter of the arts community in New York and abroad.
3. Aside from taking time to care of my children (Orestes, now 20, and A, 6 1/2) when they were first born, my career has continued since the early 1990s when I opened a gallery in Europe, to the present with my gallery in New York City, where I moved my family in 1998.
4. I am a naturalized American Citizen and have a dual Bachelors Degree from U.C. Berkeley in Social Science and Political Science. I also have an MFA from San Francisco State University in Visual Studies and Film Making.
5. My art career has been connected from day one with cutting-edge and contemporary art pioneered in the mid-90s and the upcoming scene of the international contemporary art world, which has been led by New York. (The position of New York on the international scale is one of the reasons why I moved back to the U.S.).

6. Throughout my gallery, I have nurtured many young artists who are now enjoying a solid and prominent art career.

7. I represent young and upcoming artists mainly from New York and Europe. I am also an active member in numerous committees for non-profit art organizations and a high member in museums of New York, as well as on museum committees such as the Endowment Committee at the Modern Museum of New York and the New Museum (recently opened in downtown, NY).

8. My work requires my long-term involvement with curators, collectors, artists, and young art non-profit spaces, where new and fresh artists show before their work is launched in galleries. I have many professional associations in the academic world, with scholars and professors from some of the best universities in the country, such as Yale, Harvard, UCLA, Pratt Institute, NYU University and others.

9. I have an established reputation in the art world, and it is through the contemporary art world that I first met Udo Brandhorst.

10. I carefully reviewed and edited the complaint and first amended complaint filed in this court and believe that the facts in both complaints are true and accurate.

11. I understand from reading the motion papers from Udo Brandhorst that he has claimed that he does not owe me my artwork or my money because he paid me back in monthly payments of \$20,000. That money was for support for our daughter and he has argued as much in papers he submitted in New York Family Court.

12. There is no connection between this art litigation, which involves my investment in contemporary art, and the support Mr. Brandhorst owes to our daughter.

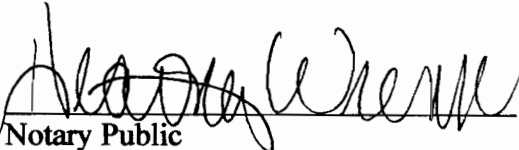
13. I believe the reason why Udo Brandhorst does not want to give me my fair share of the art that he purchased from the Gagosian Gallery on my behalf is because the two Damien Hirst

pieces have become very valuable. I would estimate that the pieces: *Hymn* and *Pill Cabinet* may be worth 15 to 20 times what we paid for them in 2002.

14. I have attached some letters that I exchanged with my bank in 1999 to this declaration to show the Court that the bank account at issue was in my name and the funds in the account were mine.


Venetia Kapernekas

Subscribed and sworn before me this
26th day of June, 2008.


Notary Public

HEATHER WRENN
Notary Public, State of New York
No. 01WR6134614
Qualified in Queens County
Commission Expires October 3, 2009

Private Banking Aeschenvorstadt

PRIVATE BANKING

**Basler
Kantonbank**

GARANTIERT SICHER

Postfach
4002 BaselTelefon ++41(0)61 266 27 66
Telefax ++41(0)61 266 29 11
Telex 965 959 BKB CH
cantophone ++41(0)61 266 20 20
BKB-Lady-Consult ++41(0)61 266 30 00
<http://www.bkb.ch>
Postcheck 40 - 61 - 4
MWST-Nr. 116 650Mrs
Venetia Kapernekas
20 East 10th
3rd House
New York NY 10003
USA

Datum 4. Oktober 1999/A61/PSE

Kontaktperson Peter Stepanek

Direktwahl + + 41(0)61 266 27 19

USD account

Dear Mrs Kapernekas

I tried to reach you during the last few days because I wanted to ask you if you would be interested in investing a part of the total amount of your account.

Therefore I would need some more information about your personal aims you try to reach with the money. Then I will be able to create a personal asset allocation for you.

Below you find a few questions:

- How long do you want to invest your money?
- Do you need the interests or can they be reinvested?
- How much percent of your total amount can be invested in stocks?
- Do you already have other accounts with investments?

Concerning the power of attorney for your son we will post you the necessary document in the next few days.

If you have any further questions please don't hesitate to call your personal relationship manager Mr. Peter Stepanek (0041 61 266 27 19) or send a fax (0041 266 29 11).

Yours faithfully

Basler Kantonbank

Marc Wild

Peter Stepanek

VENETIA KAPERNEKAS FINE ARTS, INC.

OK V
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Kantonalbank Basler
Aechenvorstadt 41
Postfach, CH-4002 Basel
Swift BKBBCHBB
TEL: 011-41-061/266 21 21 via fax:061 261 84 34

contact: Patrick Steiner

New York, October 7th, 1999

Dear Mr. Steiner,

good morning!

a) after your call two weeks ago I did not hear from you regarding any investment plans that you have for your clients. Please let me know.

b) I would need to have a wire transfer of the amount (15,000 US\$--fifteen thousand dollars) from my acct no [REDACTED] (US\$)

to the account under my name at :

Merill Lynch
MELLON BANK
Pittsburg,PA
ABA # [REDACTED] 1
SubA/C# [REDACTED] 2
MERRILL LYNCH, PIERCE, FENNER & SMITH
Acc no: 850-07L61

You do need to wire transfer it on emergency, just the regular via.

c) Please update my address with my business address in the gallery.
(instead of my home address: 20 East 10th str. NY NY 10003)

change to: Venetia Kapernekas Fine Arts, Inc.
c/o Venetia Kapernekas
526 West 26th street, Suite 814
New York, NY 10001
tel: (212) [REDACTED]
fax: (212) [REDACTED]

Thank you in advance. You may contact me either by phone or fax of the above.

Yours sincerely,

Venetia Kapernekas
Venetia Kapernekas

Spiegelgasse 2
Postfach / P.O.Box / Case postale
CH-4002 Basel, Switzerland / Suisse
Telefon + +41(0)61 266 21 21
Telex 966 969 BKB CH
Telefax + +41(0)61 261 84 34
<http://www.bkb.ch>
Swift BKB8 CH 88



Telefax Uebermittlung/Message Telefax/Telecopy Message

An
A

To Mrs Venetia Kapernekas

Telefax Nr. 001 212 462 41 15

Zu Händen von
A l'attention de
To the attention of

Anzahl der übermittelten Seiten inklusive Deckblatt
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Number of pages transmitted including this cover sheet 2

Dear Mrs Kapernekas

Thank you very much for the fax.

We tried to reach you during the last few days but unfortunately we haven't been able to reach you.

Therefore I have send you a letter with some questions because I need some more information about you and your personal aims with the money. You will find this letter enclosed to this fax. Please answer these questions carefully because then I will be able to find the correct asset-allocation for you.

Concerning the points b) and c) of your fax I can reassure you that we have already done the necessary things.

Please feel free to call me or send me a fax.

Tel. 0041 61 266 27 19

Fax. 0041 61 266 29 11

Yours sincerely

P. Stepanek

Absender/Expéditeur/Sender

Unsere Referenz

Notre référence

Our reference A61/PSE

Telefax Nr. ++41(0)61 266 29 11

Ort und Datum

Lieu et place

Place and date

Basel

Bâle, le

Basel,

08.10.99

VENETIA KAPERNEKAS FINE ARTS, INC.

Kantonalbank Basler
Aechenvorstadt 41
Postfach, CH-4002 Basel
Swift BKBBCHBB
fax:061 261 84 34

OK

contact: Patrick Steiner

New York, ~~May 27th~~, 1999

To whom it may concern:

(Twenty thousand dollars)
Please wire transfer the amount of 20,000 \$ from my account
acct no: ~~1234567891~~ (US\$)

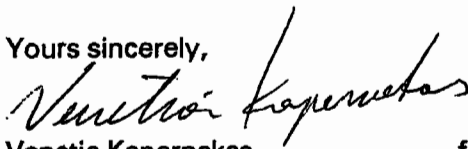
to:

Merill Lynch
MELLON BANK
Pittsburg,PA
ABA #0430-0026-1
SubA/C#101-1730-12
MERRILLYNCH,PIERCE,FENNER & SMITH

further credit to : Venetia Kapernekas
Acc no: ~~950-11111~~

Thank you in advance. Please let me know if you may, by fax (212.462 4115)
when the transfer occurred.

Yours sincerely,



Venetia Kapernekas

fax id: ORESTES

note: I would like to ask you to refer me to your particulat department of
investing or open an investment account at Kantonalbank. I am planing to be in Basel for
a visit the art fair. I cold possibly come to the bank on Wednesday morning, June 16th.
Please let me know either by fax or call
at gallery ~~212-123-1234~~ or my cellular at ~~917-234-5678~~ to confirm a meeting.